ON JURISPRUDENCE AND THE CONFLICT OF LAWS. By FREDERIC HARRISON. With Annotations by A. H. LEFROY. Oxford: OXFORD UNIVERSITY PRESS. 1919. pp. 179.

The five lectures reprinted in this volume were prepared by the author as Professor to the Inns of Court and originally published in the *Fortnightly Review* in 1878 and 1879. They have now been revised by the author and annotated by Professor Lefroy of the University of Toronto. The immediate occasion of their publication in book form seems to have been chiefly a desire on the part of the editor to have them accessible for use by his students. The essays have, however, a permanent value for all scientific students of the law, and the thanks of the profession are due to Professor Lefroy for bringing about their reprinting in an accessible form.

The first three of the lectures deal respectively with "Austin and Maine on Sovereignty," "Austin's Analysis of Law" and "The Historical Method." Professor Lefroy has sought to bring these discussions down to date by annotations containing extracts from the works upon Jurisprudence published since the essays were written. The remaining two lectures deal with the "Conflict of Laws" and are not annotated. It is interesting to note that the author's suggestion that the body of law commonly known as Private International Law or the Conflict of Laws might more aptly be called "Intermunicipal Law" has apparently not met with favor, although on its merits it has much to commend it. More important is the author's sane view of the logical and legal bases of the rules of the Conflict of Laws. Much good would be accomplished if all lawyers and judges who have to deal with problems in this field were compelled to familiarize themselves with Mr. Harrison's sensible views as here set forth.

Walter Wheeler Cook

THE PROBLEM OF ADMINISTRATIVE AREAS. By HAROLD J. LASKI. Smith College Studies in History, Vol. IV, No. 1. Northampton, Mass.: DEPARTMENT OF HISTORY OF SMITH COLLEGE. 1918. pp. 64.

This pamphlet by Mr. Laski is an attempt to analyze the problems consequent upon a refusal to accept the orthodox monistic theory of state sovereignty,—a position taken by the author in an earlier volume, *The Problem of Sovereignty*. These consequences are summarized as the necessity for administrative decentralization, and the distribution of the exercise of sovereignty to units based on industrial or functional rather than geographical lines. This, it is urged, would give many groups of citizens a wider and more immediate control over those conditions which are peculiarly important to them. As illustrations of such units Mr. Laski draws from English sources, particularly trade unions and industrial councils of the order proposed by the Whitley Reports. The existence of legal problems in the conflict between such functional units as corporations, partnerships, stock exchanges, employers' associations, trade unions, churches, guilds, and organized interests and movements, such as

the bankers, brewers, and suffragists, often "little less than Federal states," is suggested but dismissed with the statement that their "necessary relation to the state is not a difficult matter of adjustment" (p. 37), and that, as arbiters, agencies similar to that "admirable" organization, the Interstate Commerce Commission, would suffice.

Perhaps in confining his offering mainly to fragments of inspiration and stylistic excrescences, Mr. Laski is but observing the necessary limits of a series of popular college lectures upon government. However that may be, one may admit the author's thesis, which involves nothing more than well-recognized principles as, for instance, the delegation of power to commissions and public officers and the grant of powers by incorporation to associated groups of individuals, and yet find no great service rendered by his treatment of it. Time spent upon the realistic implications of such legal doctrines, while valuable as compelling frank recognition of our actual departure from the unitary idea of state sovereignty, is apt to prove but an irritation to those who feel that political salvation is less a matter of time spent in promulgating ubiquitous general principles than in their wearisome and detailed application, or, in the absence of recorded experience, in considering the manner in which investigation must proceed in order to deduce satisfactory standards for application. Political science and public law needs more than anything else to free itself from the bondage of that insistence upon theory to which for the most part its early guardians limited their efforts, and to turn to the analysis of the vast amount of actual existing administrative data.

The sovereignty which permits freedom of internal management is, paraphrasing Professor Dewey, but a liberty in the execution of an enterprise to influence other similar groups. It must be measured by the extent to which the law and the difficulties of administration permit such influence and operation free from outside interference. The limitations upon such influence and operation imposed by superior administrative agencies including courts,—for example, the public responsibility which members and officers must bear personally and vicariously because of their responsibility for the units' management, the denial of complete autonomy as to internal organization, and the adjustment of conflicting interests and jurisdictions of different units—are no more than the whole problem of administrative law in its wider sense, i. e., when not confined merely to the law of civil actions against public officers. These problems, rather than being easy of adjustment, prove most difficult,, and where questioners have attempted to find an answer in the present small amount of court decisions, as well as in principles of efficient administration, the results are so hopelessly contradictory as to merit discussion rather than dismissal. There might, also, well have been considered the vast field of more or less novel geographical units of administration, such as, rural, sanitary, park, school, drainage, Federal Farm Loan, Federal Reserve and irrigation "districts," and those of less

common terminology, as the "port of Portland," and municipal "zones."

Such excellent titles as the ones Mr. Laski uses, should long ago have been copyrighted by the public and kept protected until an applicant could prove that a sufficient public use was involved in his prospective "taking" of them.

Frederic P. Lee

CONSTITUTIONAL POWER AND WORLD AFFAIRS. By GEORGE SURHERLAND. New York: COLUMBIA UNIVERSITY PRESS. 1919. pp. 202.

The war and treaty-making powers of the United States, and their relationship to constitutional safeguards and the reserved powers of the states, are subjected to close analysis in this series of eight lectures delivered at Columbia University during 1918, on the George Blumenthal foundation, by former Senator Sutherland. The interest of the study is in its peculiar timeliness. The extent to which the treaty clause increases the powers of the Federal Government beyond those specifically enumerated in the Constitution, and to which it authorizes entry upon a field of legislation otherwise reserved to the police functions of the several states, has been determined neither by the Constitution itself nor by the courts. Its importance is indicated by the fact that the provisions of the Treaty of Peace with Germany, relative to labor and opium, respectively, involve an exercise of police power, which, except for the treaty provision, would clearly be *ultra vires* of the Federal Government. If, then, the exercise of these powers is upheld under the treaty clause, the police power will be augmented at a time when the decision in the Child Labor Case threatened greatly to circumscribe it.

The war power, Mr. Sutherland believes, is supreme over all other constitutional provisions, and is limited only by the urgency of the exigency in which its application is invoked. While he concedes that the treaty-making power is not limited by powers specifically accorded to the Federal Government, he feels that it cannot be exercised in contravention of constitutional inhibitions. It would appear, however, that the same argument of expediency is applicable as in the case of the war power, and that, after a disastrous war, the treaty stipulation of provisions in contravention of the Constitution, such as articles giving a foreign power temporary control over American trade and industries, might be necessary for the preservation of the state. That the Supreme Court, under such circumstances, would hold the treaty invalid, appears hardly likely.

Mr. Sutherland's interpretation of the attitude which Congress should assume in considering a treaty negotiated by the executive, which is akin to that adopted by the courts in passing upon an exercise of state or municipal police power, is peculiarly pertinent, as is his comment on the right of Congress to pry into the minutes of the actual negotiations preceding the treaty. The writer is to be congratulated equally upon the modern interest of the book, the thorough manner in which he considers the problems presented, and the